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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,847	07/23/2003	Neeman Malek	UBI201	1885

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EXAMINER

KYLE, MICHAEL J

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/626,847

Applicant(s)

MALEK, NEEMAN

Examiner

Michael J Kyle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/23/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

1. Claim 5 is objected to because of the limitation, “the open side”. An “open side” has not been previously provided for in this claim.
2. Claim 6 is objected to because it appears the claim recites that the means for connecting is attached to the sash, elastic element, first pulley block, and at least a portion of the second pulley block, in the last two lines on page 10. As best understood by the examiner, the means for connecting is only attached to the sash. Examiner suggests editing the claim language to clearly claim this feature. Appropriate correction is required.
3. Claim 8 is objected to because of the limitations of the elastic element having a “second end” and “third end”, in the second paragraph of the claim. It is unclear if the element has a first end, or if the second end is different from the “second end” recited in the first paragraph of the claim. As best understood by the examiner, there is no first end, and the second end of the elastic element is different that the second end of the housing, recited in the first paragraph of the claim. Examiner suggests editing claim language to more clearly present these features.
4. Claims 9 and 10 depend from a claim 8 and include of the limitations thereof. For this reason, these claims are also objected to.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted element is: a cord. Without a cord, the claimed housing is not able to move along a length of window, nor will the claimed structure provide an assembly that will function.

8. Claims 2-7 depend from rejected claim 1, and include all of the limitations thereof. For this reason, these claims are also rejected.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1-4 and 6-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Thompson et al (“Thompson”, U.S. Patent No. 6,840,011). As an initial matter, examiner notes Thompson’s relation to a provisional application filed on December 13, 1999. With respect to claim 1, Thompson discloses a housing (402) adapted to move along a track (216), a first elastic element (414) with ends attached to the housing (at 416) and a first pulley block (420).

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Thompson further shows a second pulley block (422) fixed against movement along the housing (by rivets 440, 442), and a second element (630 or 206) mounted in the second pulley block, and rotatable about a first axis when the sash is rotated out of the window, when the second element is connected to the sash and the housing is mounted on the track.

11. With respect to claim 2, Thompson discloses means for braking (620) configured for lateral extension from the second pulley block in response to rotation of the second element (630) for engaging the frame, preventing movement of the housing along the length of the window from track.

12. With respect to claims 3 and 4, Thomson discloses a bearing surface (640) integrally molded in the second pulley that receives the second element. Examiner notes the limitation “integrally molded” is a process limitation in an article claim, and is given little patentable weight. As long the prior art shows a device that is capable is being made by the claimed process (integrally molding), then the prior art device is considered to read on the claim. As such, examiner asserts the bearing surface of Thompson is capable of being integrally molded.

13. With respect to claim 6, Thompson discloses the housing (402) to comprise a front wall, first side wall and second side wall (see figure 4), extending in a generally U-shape in cross section on three sides each of the elastic element (414), the first pulley block (420) and second pulley block (422). Thompson further discloses means for connecting the second element (630) to the sash (see enlarged end of 630 at top of figures 7 and 8). This portion extends along the first axis normal to the front wall, traversing the front wall, so that when the housing is mounted on the track for moving along the length, the means for connecting is attached to the sash, the elastic element, first pulley block and the second pulley block are enclosed by the housing and

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the track when the sash is parallel to the track and when the sash is rotated out of the window frame.

14. With respect to claim 7, Thompson discloses means for guiding the housing in the track (438 or 642) on the second pulley block, extending lateral to the first length. As noted with respect to claim 4 above, the limitation “integrally molded” is process limitation and is given little weight.

15. With respect to claim 8, Thompson discloses a sash balance shoe comprising a housing (402) having first and second ends and a first length, adapted to move along a second length of a window track frame (216). The first length is parallel to the second. The sash balance shoe also includes an elastic element (414) with one end attached to the housing, and the other end attached to a first pulley block (420) that is movable along the housing, and a second pulley block (422) in the housing fixed against movement (by rivets 440, 442). Thompson further discloses a cam (634) mounted in the second pulley block, rotatable about a first axis in response to rotation of the sash out of the window frame when the cam is connected to the sash.

Furthermore, Thompson shows a cord (214) with a first end attached to a second pulley block, wrapped around a first pulley in the first pulley block, wrapped around a second pulley in the second pulley block, and extending from the housing for attachment of a second end of the cord to the window frame (at 218).

16. With respect to claim 9, Thompson discloses the housing (402) to comprise a front wall, first side wall and second side wall (see figure 4), extending in a generally U-shape in cross section on three sides each of the elastic element (414), the first pulley block (420) and second pulley block (422). Thompson further discloses means for connecting the second element (630)

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to the sash (see enlarged end of 630 at top of figures 7 and 8). This portion extends along the first axis normal to the front wall, traversing the front wall, so that when the housing is mounted on the track for moving along the length, the means for connecting is attached to the sash, the elastic element, first pulley block and the second pulley block are enclosed by the housing and the track when the sash is parallel to the track and when the sash is rotated out of the window frame.

17. With respect to claim 10, Thompson discloses means for guiding the housing in the track (438 or 642) on the second pulley block, extending lateral to the first length. As noted with respect to claim 4 above, the limitation “integrally molded” is process limitation and is given little weight.

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson.

Thompson discloses the housing to comprise front wall with attached first and second side walls (see figure 4), extending in a generally U-shape in cross section on three sides of each of the elastic element, first pulley block, and second pulley block. Thompson further discloses means for connecting the second element to the sash (see enlarged end of 630 at top of figures 7 and 8) extending from the first axis generally normal to the front wall so that when the housing is

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mounted on the window frame, the means for connecting is attached to the sash, the front wall is covered by the track, and an open side opposite the front wall faces away from the track.

Thompson does not disclose the open side opposite the front wall to be covered by the track.

20. Applicant's housing appears to be similar to that of Thompson, except that applicant has reversed the orientation of the housing, such that an open side is covered by the track. It is considered within the level of one having ordinary skill in the art to change the orientation of an element. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Thompson, such that the housing is oriented in a reversed manner (i.e. rotated 180 degrees about its longitudinal axis) as changing the orientation of a known part is known in the art. Such a change produces no new or unexpected result.

Conclusion

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following references are cited to further show the state of the art with respect to sash window balances: Cross, Meunier et al, and Newman et al (U.S. Patent Application Publication 2003/0056320).

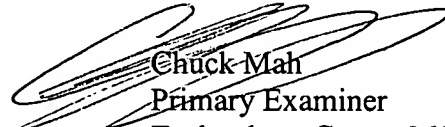
22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J Kyle whose telephone number is 703-305-3614. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

23. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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24. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mk


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